IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WA.No. 2438 of 2007

AGAINST THE JUDGEMENT IN WPC.32223/2006 Dated 16/07/2007

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APPELLANTS/RESPONDENTS 2 TO 9:
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1. KERALA STATE ELECTRICITY BOARD,
   REPRESENTED BY ITS SECRETARY,
   VYDHYUTHI BHAVAN,
   PATTOM, THIRUVANANTHAPURAM.

2. THE ASSISTANT EXECUTIVE ENGINEER,
   ELECTRICAL DIVISION,
   K.S.E.BOARD,
   KANJIKODE, PALAKKAD.

3. THE EXECUTIVE ENGINEER,
   ELECTRICAL DIVISION,
   K.S.E.BOARD, PALAKKAD.

4. THE ASSISTANT EXECUTIVE ENGINEER,
   ELECTRICAL DIVISION, K.S.E.BOARD,
   KALPATHY, PALAKKAD.

5. THE ASSISTANT ENGINEER,
   ELECTRICAL SECTION,
   K.S.E.BOARD, OLAVAKODE.

6. DEPUTY CHIEF ENGINEER,
   ELECTRICAL CIRCLE,
   K.S.E.BOARD, PALAKKAD.

7. THE CHIEF ENGINEER,
   ELECTRICAL DIVISION NORTH,
   K.S.E.BOARD,KOZHIKODE.

8. THE ASSISTANT ENGINEER,
   ELECTRICAL SECTION,
   K.S.E.BOARD, MALAMPUZHA.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS/PETITIONER & RESPONDENTS 1 & 10:
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1. KERALA SPONGE IRON LTD.,
   12/1324(19),
   II FLOOR, ASR PLAZA,
   PRIYADARSHINI ROAD, PALAKKAD.

2. STATE OF KERALA,
REP. BY SECRETARY,
DEPARTMENT OF INDUSTRIES,
SECRETARIAT, THIRUVANANTHAPURAM.

3. ELECTRICAL INSPECTOR,
PALAKKAD.

R1 BY ADV. SRI.JOSEPH KODIANTHARA
SRI.MATHEWS K.UTHUPPACHAN
R2 & R3 BY GOVERNMENT PLEADER MR.M.P.SREEKRISHNAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2438 of 2007

Dated, this the 29th day of October, 2007

JUDGMENT

H.L.Dattu, C.J.

Questioning the correctness or otherwise of the orders passed by the learned Single Judge in W.P.(C) No.32223 of 2006 dated 16th July, 2007, the respondents 2 to 9 in the writ petition have filed this writ appeal. By the impugned order, the learned Single Judge has directed the Kerala State Electricity Board ('the Board' for short) to give electricity supply to the petitioner industrial unit, on the petitioner complying with all the formalities within one month from the date of receipt of a copy of the Court's order.

(2) The petitioner, prior to the order passed by the State Government in No.26022/F2/05/ID dated 17.11.2005, had applied to the Board for supply of electrical energy. The Board now rejects the request of the petitioner solely on the ground that the Board is of the opinion that in view of the order passed by the State Government dated 17.11.2005 which has come into effect from 1.10.2005, it is prohibited from supplying electrical energy to any steel and allied industries in Palakkad/Kanjikode/Walayar area with effect from 1.10.2005.

(3) In the instant case, the petitioner industry after obtaining prior permission from various authorities, has started erecting the industry. It had also applied to the Board for supply of electrical energy. All these things were done much prior to 1.10.2005, which is the cut off date reflected in the order passed by the State Government. Keeping this aspect of the matter in view, the learned Single Judge while allowing the writ petition has directed the Board

to give supply of electrical energy to the petitioner unit.

(4) Sri.C.K.Karunakaran, learned counsel appearing for the Board, at the time of hearing of this appeal for admission, would contend that the order passed by the State Government dated 17.11.2005 would come in the way of the Board in complying with the orders and directions issued by the learned Single Judge. To appreciate the contention of the learned counsel, we refer to the order passed by the State Government dated 17.11.2005. The same is as under:

> "Sir,
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> Sub: Industries Establishment of Steel units in Palakkad- Clarification Reg.
>
> Ref: 1. Letter No.ID5/21054/05 dated 9.11.05 from the DI&C, Thiruvananthapuram.
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> 2. Letter No.PCB/HO/PKd/CE/16/0705 dated 26.8.05
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> With reference to the letters cited, I am to clarify that the decision in the meeting of the Industrial Monitoring Committee held on 9.8.2005 was that, further permission would not be given to start steel & allied industries in Palakkad/Kanjikode/Walayar area with effect from 1.10.2005. It is further clarified that in view of the above decision, those individuals/units who applied prior to 1.10.2005 should be invariably be granted permission to start their units subject to fulfillment of other mandatory conditions."

(5) A reading of the said order would clearly indicate that a meeting had been held by the Industrial Monitoring Committee on 9.8.2005 and has resolved that no permission should be given to start steel and allied industries in Palakkad/Kanjikode/Walayar area with effect from 1.10.2005. Further, the Government order clarifies that the individuals/units who had applied for starting of the industry prior to 1.10.2005 should be granted permission subject to the

fulfillment of other mandatory conditions.

(6) In the instant case, the petitioner unit had applied for starting of the industry much earlier to 1.10.2005. Apart from that, the petitioner industry had also applied to the Board for supply of electrical energy much earlier to 1.10.2005. In fact, on 24.5.2007 the Chief Electrical Inspector had granted permission for energisation of the petitioner unit.

(7) In view of this, in our opinion, the contention of Sri.C.K.Karunakaran, that the order passed by the State Government dated 7.11.2005 would come in the way of the Board in supplying electrical energy to the petitioner unit has no merit whatsoever. In that view of the matter, in our opinion, the learned Single Judge was fully justified in directing the Board to supply electrical energy to the petitioner industrial unit . Therefore, there is no merit in the Writ Appeal and accordingly, the same requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns/DK.